



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

June 15, 2010

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To: Supervisor Gloria Molina, Chair  
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From: William T Fujioka  
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

## **SACRAMENTO UPDATE**

This memorandum contains a status update on County-advocacy legislation regarding motor vehicle brake friction materials.

### **Status of County-Advocacy Legislation**

**County-support if amended SB 346 (Kehoe)**, which would: 1) reduce the use of copper and other heavy metals in automobile brake friction materials starting in 2014, and effectively remove copper from brake pad materials by January 1, 2032; 2) impose specified requirements on manufacturers and retailers of vehicles and brake friction materials; and 3) provide for a \$1.00 fee on each new brake friction materials set sold in the State, to fund the various activities specified in the bill, was substantially amended on June 7, 2010.

Although the overall intent of SB 346 remains the same, the June 7, 2010 version of the bill deletes a majority of the bill's provisions, including the ones requiring the State Department of Toxic Substances Control (DTSC) to: 1) conduct a baseline survey of the concentrations levels of nickel, zinc, copper, and antimony in motor vehicle brake friction materials, on or before January 1, 2013; 2) monitor the concentration levels of those metals in motor vehicle brake friction materials to ensure that those levels do not increase by more than 50 percent above the baseline levels established through the baseline survey; and 3) take specified action with other State agencies to determine if

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there is a need to control the use of those materials if any of those metals increased by more than 50 percent.

The June 7, 2010 version of the bill also deletes: 1) the requirement for manufacturers of motor vehicle brake friction materials to monitor and report to the DTSC on the reduction of copper concentration in motor vehicle brake friction material; 2) the requirement for DTSC to review the reports and provide specified information to the Legislature; 3) the \$1.00 fee on each new axle friction materials set sold in the State; and 4) the per capita and competitive grants to qualified entities, including local governments, for activities related to improving water quality in surface waters that receive runoff containing pollutants from vehicle brake friction materials resulting from the \$1.00 fee.

The amended version of the bill deletes the ban for motor vehicle brake friction materials exceeding 5 percent copper by weight on and after January 1, 2021, and change the compliance date for motor vehicle brake friction materials to meet the 0.5 percent copper weight requirement from January 1, 2032 to January 1, 2025. These amendments remove the intermediate compliance mandate and move forward by 7 years the effective ban on copper in motor vehicle brake friction materials. The bill continues to maintain the prohibition of the sale of brake friction materials in the State after January 1, 2014 that contain specified materials, including cadmium, chromium, lead, mercury and asbestiform fibers.

In addition, the amendments add a requirement for manufacturers to give specific consideration to the cumulative impacts on health and the environment of alternatives that increase the use of nickel, zinc, and antimony in complying with existing reporting requirements for chemicals of concern, and requires manufacturers to exercise due diligence to ensure that formulations developed to comply with the copper reduction mandate. The bill adds motorcycles to the list of those exempted from the bill's requirements.

The amendments also revise the certification requirements to require all manufacturers of friction materials used in brakes on new motor vehicles, or as replacement parts, that are sold in this State after January 1, 2014 to obtain certification from a third-party testing certification agency that each of their formulations for brake friction materials complies with the January 1, 2014 prohibition against the sale of brake friction materials containing specified materials. The certifications are valid for 3 years and manufacturers must mark proof of certification on all brake friction materials. Beginning January 1, 2025, manufacturers must obtain third-party certification of compliance with the ban on copper effective January 1, 2025. Manufacturers of friction materials must

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file a copy of the third-party certification of each of its brake friction materials formulations with the DTSC. The DTSC is allowed to charge a reasonable filing fee.

Furthermore, the date the Department of Toxic Substances Control is required to develop all certification and marking criteria, in consultation with all interested parties, is extended from January 1, 2011 to January 1, 2012, and the bill maintains the \$10,000 civil fine per violation of the bill's requirements. The bill eliminates the fee on brake friction materials, the Brake Friction Materials Fund, and the provisions authorizing grants to qualified local entities on a per capita basis and competitive basis.

The Department of Public Works (DPW) indicates that although SB 346 was substantially amended, it would still continue to enable the County to comply with Total Maximum Daily Load (TMDL) regulations that have been imposed by the Los Angeles Regional Water Control Board which require a significant reduction, if not elimination, of metals such as copper from stormwater runoff by a specified date. DPW states that passage of SB 346 would be worthwhile provided certain changes in TMDL regulations can be made by Federal and State agencies to relieve the County and other municipal agencies from what would effectively become unreasonable water quality compliance goals and target dates.

According to DPW, the major amendments to SB 346 do not change the overall intent of the bill to eliminate copper from brake friction materials. However, DPW indicates that the target dates of the TMDL regulations will need to be well coordinated with the target dates contained in SB 346. Therefore, DPW recommends that the County continue to support SB 346, if amended, to include provisions recommending that State and Federal water regulatory bodies revise the TMDL compliance schedules for copper to match the schedule for elimination of copper brake pad materials in the bill.

This measure is set for hearing on June 15, 2010 in the Assembly Environmental Safety and Toxic Materials Committee.

We will continue to keep you advised.

WTF:RA  
EW:lm

c: All Department Heads  
Legislative Strategist